

REMARKS

New drawings are included in response to the drawing objection. The drawings were inadvertently omitted in the previously filed Amendment.

Claim 17 is amended and now depends from pending claim 11.

The traversals of the claim rejections of the first Office Action and the arguments presented in response to those rejections are maintained and incorporated by reference in this response.

The final Office Action does not establish that claims 1, 3-5, 7-15, and 17-25 are unpatentable over Biddle et al. in view of David, U.S. Patent Application Publications US 2002/0107809 A1 and US 2002/0073046 A1, respectively. The rejection is traversed because the Office Action fails to show that all the limitations are suggested by the references, fails to provide a proper motivation for modifying the teachings of Biddle with teachings of David, and fails to show that the combination could be made with a reasonable likelihood of success.

The Office Action does not show that the Biddle-David suggests all the limitations of claim 1. These limitations include:

- establishing a license database including a plurality of internet protocol addresses referencing user data processing systems on which the software application is licensed to execute;

- establishing a receipt code database including a plurality of receipt codes, each receipt code indicating a paid license for the software application;

- obtaining the internet protocol address of the user data processing system using the vendor data processing system;

- if the internet protocol address is recorded in the license database, then transmitting the authorization code from the vendor data processing system to the user data processing system and activating the application with the authorization code;

- in response to the internet protocol address not being recorded in the license database, requesting a user of the user data processing system to transmit a receipt code to the vendor data processing system;

- in response to a receipt code received by the vendor data processing system from a user data processing system, verifying presence of the receipt code in the receipt code database; and

- in response to the verifying presence of the receipt code, transmitting the authorization code from the vendor data processing system to the user data processing system and recording the internet protocol address of the user data processing system in the license database.

The final Office Action admits that many of these limitations are not suggested by Biddle (page 3). In an attempt to show that these missing limitations are suggested by the Biddle-David combination, the Office Action makes some general observations of teachings of Biddle and David and concludes that the limitations are obvious, without ever showing a correspondence between elements of David and all the claim limitations acknowledged to be missing from Biddle.

Some of the limitations acknowledged by the Office Action to be missing from Biddle include “in response to the internet protocol address not being recorded in the license database, requesting a user of the user data processing system to transmit a receipt code to the vendor data processing system; in response to a receipt code received by the vendor data processing system from a user data processing system, verifying presence of the receipt code in the receipt code database; and in response to the verifying presence of the receipt code, transmitting the authorization code from the vendor data processing system to the user data processing system and recording the internet protocol address of the user data processing system in the license database.” These limitations make clear that in response to the IP address not being in the license database, the user is prompted for a receipt code. And in response to the user-provided receipt code being in the receipt code database, the authorization code is sent not the user AND the IP address is stored in the license database.

The Office Action is deficient because it relies on general functions of Biddle and David without any evidence of a suggestion of the claimed actions being taken in response to the claimed conditions. The Office Action appears to be picking and choosing key words from the claims without considering all the limitations in combination.

Biddle’s teachings as recited in the Office Action (page 4) do not support a suggestion of these limitations. The cited Biddle teachings involve customizing the database, customizing scripts, and capturing an IP address. Even if Biddle’s database can be customized, there is no suggestion that the absence of an IP address triggers a prompt for a receipt code from a user, AND that presence of the receipt code in the receipt code database triggers storage of the IP address. The same holds for Biddle’s customizable scripts.

As to Biddle’s capture of an IP address, Biddle’s paragraph #59 discusses capturing the IP address for the purpose of logging. Biddle’s paragraph #113 extracts the IP address of the user

computer. But it is not apparent from the context of Biddle's paragraph #113 how, specifically, the IP address is thereafter used. Neither of Biddle's logging of an IP address nor the capture of the IP address of a user suggest that the absence of an IP address triggers a prompt for a receipt code from a user, AND that presence of the receipt code in the receipt code database triggers storage of the IP address.

David's teachings as recited in the Office Action (page 4) do not support a suggestion of these limitations. The Office Action reads from David's publication that "IP addresses are used for the verification and authentication of users on a network, for the purpose of allowing the users access to protected digital content (Abstract; Summary; para. 23, 26, 47, 49)." These paragraphs teach that an IP address is used as identifying information during an on-line session for confirming certain activities could be attributed to a user. Even though David mentions this use of an IP address, this is clearly not suggestive of, in response to the IP address not being in the license database, prompting the user for a receipt code. And in response to the user-provided receipt code not being in the receipt code database, the sending the authorization code to the user AND storing the IP address in the license database. The Office Action does not indicate any specific correspondence of David's elements to these claim limitations, and there is no apparent relevance to the specific limitations.

The alleged motivation for modifying Biddle with David is improper. The alleged motivation states that "it would have been obvious ... to include IP addresses as one further element to use in the authentication of users and their access to protected content, as claimed in the instant application, and as amply taught by Biddle, further amplified by the specific embodiments disclosed by David ... [to] provide added flexibility while maintaining high security for the software to be licensed, eventually increasing user acceptance for the system."

The alleged motivation is merely a broad, conclusory, and vague statement of a functional objective, and therefore, improper. For example, there is no explanation of what "added flexibility" is provided, and no evidence is provided that Biddle is lacking this "flexibility". Furthermore, there is no evidence to support that "user acceptance" would be increased, and there is no evidence that Biddle's system is lacking in user acceptance.

The alleged motivation fails to even mention the limitations acknowledged to be missing from Biddle and apparently thought to be taught by David. That is, the alleged motivation does

not even acknowledge the limitations of, in response to the IP address not being in the license database, prompting the user for a receipt code, and in response to the user-provided receipt code not being in the receipt code database, the sending of the authorization code to the user AND storing the IP address in the license database.

This alleged motivation is insufficient because it simply states a conclusion. Addressing the “rigorous ... requirement for a showing of the teaching or motivation to combine prior art references,” the Court of Appeals for the Federal Circuit recently stated in *In re Dembiczak*, 175 F.3d 994, 50 U.S.P.Q.2d 1614 (Fed. Cir. 1999):

We have noted that evidence of a suggestion, teaching, or motivation to combine may flow from the prior art references themselves, the knowledge of one of ordinary skill in the art, or, in some cases, from the nature of the problem to be solved, (citations omitted), although “the suggestion more often comes from the teachings of the pertinent references,” *Rouffet*, 149 F.3d at 1355, 47 USPQ2d at 1456. The range of sources available, however, does not diminish the requirement for actual evidence. That is, the showing must be clear and particular. *See, e.g., C.R. Bard*, 157 F.3d at 1352, 48 USPQ2d at 1232. Broad conclusory statements regarding the teaching of multiple references, standing alone, are not “evidence.” (citation omitted)

The alleged motivation is merely a broad conclusory statement of a purported objective, and no evidence is provided that suggests the combination. Therefore, the alleged motivation is insufficient to support *prima facie* obviousness.

Claim 8 is an apparatus claim, and for at least the reasons set forth above for claim 1 relative to the limitations of claim 8 similar to those of claim 1, the Office Action does not establish *prima facie* obviousness.

Claim 3 includes limitations that in response to the internet protocol address not being recorded in the license database and the receipt code not being present in the receipt code database, presenting to the user data processing system an order form for the software application. It is respectfully submitted that the Office Action does not show that Biddle’s registration/subscription step 254 is in response to *both* the IP address not being in a license database and the receipt code not being in the receipt code database. Therefore, the Office Action does not show that Biddle suggests the limitations of claim 3.

Claim 4 depends from claim 3, and *prima facie* obviousness is not established for at least the reasons set forth above for claim 3.

The Office Action fails to show that Biddle teaches the further limitations of claim 5 and 14 of identifying a number of available software application licenses corresponding to the user that are not referenced to a particular internet protocol address and user data processing system; and if the internet protocol address is not recorded in the license database, then associating at least one of the available software application licenses with the internet protocol address and transmitting the authorization code from the vendor data processing system to the user data processing system. Biddle's para. #59, as cited by the Office Action, does not teach these limitations. Specifically, Biddle's para. #59 teaches a tool that is used to control access to the licensing server service. That is, the tool controls how many requests can be processed at one time and the length of time a request will run before being terminated. Those skilled in the art will clearly recognize that Biddle's teachings do not correspond to, nor do the teachings suggest that the number of licenses that are available and not associated with an IP address are identified. Nor do Biddle's teaching suggest that an IP address is associated with one of the available licenses of a user. Therefore, the Office Action does not establish *prima facie* obviousness for either of claims 5 or 14.

Claims 7, 9, and 19 respectively depend from claims 4, 8, and 12, and *prima facie* obviousness is not established for at least the reasons set forth above for claims 4, 8, and 12.

Claim 10 includes some limitations similar to those discussed above for claim 1. Thus, the rejection of claim 10 is improper for at least the reasons set forth above for claim 1. Claims 11, 12, and 13 depend from claim 10 and are allowable for at least the reasons set forth above for claim 10.

The Office Action does not establish *prima facie* obviousness for claims 15 and 18 because it fails to provide evidence that the limitations are suggested by the Biddle-David combination. Furthermore, the Office Action rejects claims 15 and 18 together, but only quotes the limitations of claim 15. The Office Action apparently does not recognize that the limitations of claim 18 are different from the limitations of claim 15. Specifically, for example, claim 15 involves processing of an IP address, whereas claim 18 involves processing of a receipt code. As explained above, the receipt code and IP address are used in a manner that is distinct from the cited teachings of the Biddle-David combination. Thus, claims 15 and 18 are not shown to be unpatentable.

The Office Action fails to show that the Biddle-David combination suggests the limitations of claim 17. In fact, the Office Action does not even address the limitations of identifying a number of available software application licenses corresponding to the user that are not referenced to a particular receipt code. Furthermore, the limitations quoted in the Office Action omit the step of "associating at least one of the available software application licenses with the receipt code" (if the receipt code is not in the receipt code database). As with the rejections of claims 1, 8, and 10, the rejection of claim 17 is based simply on a keyword match and fails to provide any evidence of a suggestion of numerous limitations. Therefore, *prima facie* obviousness is not established for claim 17.

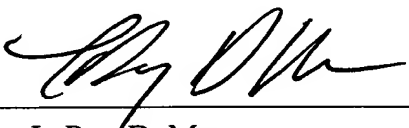
Claims 20-25 include various limitations found in claims 1, 3-5, 7-15, and 17-19. Thus, for at least the reasons presented above, *prima facie* obviousness is not established for claims 20-25.

The rejection of claims 1, 3-5, 7-15, and 17-25 over the Biddle-David combination should be withdrawn because the Office Action fails to show all the limitations are suggested by the combination, fails to provide a proper motivation for combining the references, and fails to show that the combination could be made with a reasonable likelihood of success.

Withdrawal of the rejection and reconsideration of the claims are respectfully requested. If the examiner has any questions or concerns, a telephone call to the undersigned is welcome. No extension of time is believed to be necessary for consideration of this response. However, if an extension of time is required, please consider this a petition for a sufficient number of months for consideration of this response. If there are any additional fees in connection with this response, please charge Deposit Account No. 50-0996 (HPCO.044PA).

Respectfully submitted,

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